



# Public Service Commission

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** May 30, 2000  
**TO:** Chairman Joe Garcia  
Commissioner J. Terry Deason  
Commissioner Susan F. Clark  
Commissioner E. Leon Jacobs, Jr.  
Commissioner Lila A. Jaber  
**FROM:** Cindy Miller, Division of Policy Analysis and Intergovernmental Liaison  
**RE:** Legislative Wrap-Up -- 2000 Session

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## I. **BILLS THAT PASSED**

### **CS/CS/SB 1334, Network Access Points**

This bill became a 72-page "train" with numerous amendments tacked on. It includes the Uniform Electronic Transaction Act which addresses electronic signatures, electronic records acceptance and distribution of electronic records by governmental agencies. Each governmental agency shall determine whether, and the extent to which, such agency will create and retain electronic records and convert written records to electronic records.

Except where law prohibits, each governmental agency will determine whether, and the extent to which such agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate and rely on electronic records and electronic signatures.

--To the extent that a governmental agency uses electronic records and electronic signatures, the state technology office, in consultation with the governmental agency, giving due consideration to security, may specify: (1) the manner and format in which the electronic records must be created, stored, communicated etc.; (2) the type of electronic signature required; (3) control processes and (4) other required attributes reasonably necessary.

However, this section does not require a governmental agency to use or permit the use of electronic records or signatures.

The legislature finds that a proper and legitimate state purpose is served by providing the public with access to public records and information on the Internet.

--Section 282.005, F.S., is revised to require agency heads, in consultation with the state technology office, to address the most cost-effective information technology resources.

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The State Technology Office is created and administratively placed in the Department of Management Services.

A Task Force on Privacy and Technology is created.

Changes are made to Chapter 287 to allow bids through electronic means. The State Technology Office will develop a program for on-line procurement.

A section on creation and implementation of a marketing and image campaign is added. This is to attract and retain information technology businesses in the state. Also, the Department of Labor and Employment Security shall facilitate efforts to develop a website that promotes information technology in the state.

Some refinement is made to the excavation notification requirement. It extends to member operators on behalf of single family residential property so long as certain criteria are met. These new requirements include that the excavation or demolition is only up to a depth of 10 inches and that due care is used.

**Network Access Point.** The State encourages the development of a network access point, which is defined to be a carrier-neutral, public-private Internet exchange point.

A sales tax exemption is created for "equipment used to deploy broadband technologies." This is defined as "necessary for use in the deployment of broadband technologies as part of the direct participation by the communications service provider in a network access point." "This exemption inures to the communications service provider only through a refund of previously paid taxes."

**PSC Nominating Council.** The PSC Nominating Council statute, § 350.031, F. S., is revised so that members appointed by the Speaker of the House of Representatives serve at the pleasure of the Speaker; and members appointed by the President of the Senate serve at the pleasure of the Senate President.

--A member may not be reappointed, except for a House or Senate member or a person who is appointed to fill the remaining portion of an unexpired term.

--This applies to any person who is a member of the Nominating Council on the effective date of the act.

A severability clause is added so that any portion of the Act held invalid will not affect the whole Act.

The Act takes effect July 1, 2000.

### **HB 2301, Universal Service Obligation**

This bill amends § 364.025, F.S., to extend carrier-of-last-resort obligations from January 1, 2001, to January 1, 2004. Also, it extends to 2004 the “changed circumstances” provision in which parties may petition the PSC regarding circumstances that warrant a change in the interim mechanism. It also extends to 2004 the obligation of the legislature to establish a permanent universal service mechanism.

### **SB 1338, Communications Services Tax Simplification Law**

This 160-page bill addresses comparable taxation of differing communications services and simplification of taxes generally. “Communications services” is defined as

... the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including cable services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.

The term does not include Internet access service, information service, and a number of other services.

This is major legislation which involved elaborate negotiations among the local governments, the communications industry players, and the Department of Revenue. It is a major overhaul of a number of tax statutes.

Legislative intent is provided that municipalities and counties treat telecommunications companies in a nondiscriminatory and competition-neutral manner when imposing regulations governing the placement or maintenance of telecommunications facilities in the public roads or rights-of-way. A municipality or county may adopt regulations relating to the placement of facilities and may require certain information (including a certificate of authorization from the PSC or FCC).

After January 1, 2001, a municipality must provide to the Secretary of State, at least 10 days prior to consideration or first reading, notice of a proposed ordinance governing a telecommunications company placing or maintaining facilities in its roads or rights-of-way. A county must do so 15 days prior to consideration at a public meeting.

The authority of municipalities or counties to require franchise fees from providers of communications services is specifically preempted by the state, except for negotiations for in-kind requirements. Municipalities and counties retain authority to collect franchise fees from users other than communications providers.

The Act takes effect July 1, 2000.

**SB 1280, Nursing Homes (Public Counsel role in county water/wastewater proceedings.)**

Section 350.0611, F.S., is amended to authorize the public counsel to represent customers in proceedings before the counties pursuant to § 367.171, F.S. Also, § 367.171, F.S., is amended to require counties to follow §§ 120.564 and 120.57, F.S., in water/wastewater rate proceedings.

**SB 1748, Repealer Bill and Reviser's Bill (HB 1051)**

Repeals some obsolete date information in Chapter 364, F.S., regarding deadlines for PSC reports to the legislature, and other time frames no longer applicable. The Reviser's bill addresses statutory reference in the Education part of Chapter 364.

**CS/CS/SB 1646, Water Pollution Control**

Section 403.1835, F.S., on water pollution control financial assistance is amended to provide new criteria for eligible projects. However, investor-owned utilities are not eligible because projects are those eligible under Section 603 of the Federal Water Pollution Control Act. Eligible projects include, but are not limited to, planning, design, construction, and implementation of wastewater management systems, storm water management systems, nonpoint source pollution management systems, and estuary conservation and management. The bill enhances the level of funding by leveraging the existing state revolving trust fund for wastewater and storm water projects.

The Department of Environmental Protection (DEP) must adopt a priority system by rule. DEP must give priority to certain projects.

The Florida Water Pollution Control Financing Corporation is created as a nonprofit public-benefit corporation for financing or refinancing water pollution control activities. The Corporation is to be governed by the Governor's Budget Director (or designee), the Comptroller (or designee), the Treasurer (or designee), the Secretary of DEP (or designee), until 2003, when the Chief Financial Officer will take the place of Treasurer and Comptroller. The executive director of the State Board of Administration shall direct and supervise the affairs of the corporation. In FY 2000-2001, the DEP is appropriated an amount not to exceed \$10 million from the Wastewater Treatment Trust Fund to transfer funds to the Corporation.

**CS/HB 2365, Wetlands Mitigation**

This bill requires the Department of Environmental Protection and certain water management districts to adopt a single uniform wetland mitigation assessment method, by rule, by January 31, 2002. The assessment must be established by October 1, 2001. It also authorizes DEP, water management districts, and local governments to establish and manage mitigation sites, and to provide mitigation options for private single-family lots or homeowners. The use of mitigation options under this process are not subject to the full cost accounting provision of Chapter 373.

A water management district and other governmental agency may apply the uniform wetland mitigation assessment method without the need to adopt it pursuant to § 120.54, F.S.

### **SB 718, Lobbying**

There are some revisions on lobbying expenditure reports. Also, Section 112.3215 relating to lobbyists before the Executive Branch is revised to exclude from the “lobbyist” definition in the section, employees of the legislative or judicial branch entity. Expenditure reports are changed from quarterly to biannually.

### **CS/CS/CS/SB 406, Economic Development/E-Rate**

This 47-page bill on economic development creates the Community and Faith-based organizations initiative within the Institute on Urban Policy and Commerce at Florida A & M University.

The initiative is headed by Florida A & M University and the Community and Library Technology Access Partnership and administered by the Division of Library and Information Services of the Department of State. One of the authorized functions is to provide funding for e-rate eligible public libraries to provide technology access and training to community or faith-based organizations. It must be used for eligible public libraries in distressed communities in the state.

The legislation will provide a method of assessment and outcome measurement for e-rate eligible public libraries to assess progress in closing the digital divide and in training individuals to succeed in the emerging information economy.

Other economic development initiatives are included in the bill.

### **CS/CS/HB 181, Financial Disclosure and Ethics**

This lengthy legislation redefines the gift definition in § 112.312, F.S. It sets forth the fines for each day a filing is late. Also, it has a new filing requirement for employees leaving a state agency within 60 days of departure. Refinements are made to financial disclosure requirements, including what is considered “all sources of income,” disclosure of liabilities, and more.

There is a \$25 per day fine for each day late on filing financial disclosure forms. A process is set forth for disputing a fine. The Ethics Commission must adopt rules to implement this new law. The Ethics Commission is required to adopt rules relating to the filing of financial disclosure statements. The bill expands the scope of employees covered. The bill also provides for amending financial disclosure statements. Revisions are made to reporting liabilities and assets.

The Commission on Ethics is directed to develop a plan to implement a course of study regarding the requirements of the Sunshine Law and Code of Ethics, the Public Records Law and the “Misuse of Public Office” law.

The Act takes effect January 1, 2001.

### **SB 154, Vexatious Litigant Law**

This bill provides for court order to require certain plaintiffs to furnish security for certain purposes. A “vexatious litigant” is a person who, in the preceding 5-year period, has maintained 5 or more civil actions in any state court (except the Florida Small Claims) which actions have been adversely determined against such person. Other disincentives are added for the “vexatious litigant” filing cases.

### **HB 2433, Taxation**

An exemption from ad valorem tax is added for not-for-profit water and wastewater systems with the sole function to construct, maintain, or operate a water/wastewater system in this state. Criteria are added in the tax statute relating to machinery and equipment used in the production of electrical or steam energy. “If it is determined that 15 percent or less of all electrical or steam energy generated was provided by burning residual fuel, the full exemption shall apply.” Numerous other changes are made to Chapter 212 taxes and to other related statutes.

### **HB 2377, State Budgetary Process**

This 166-page bill makes many changes affecting state agencies. “Long range program plan” is defined as a plan developed on an annual basis by each state agency, pursuant to § 216.011, F.S., that is policy based, priority driven, accountable, and developed through careful examination and justification of all programs and their associated costs.”

“State agency” is newly defined to include the FPSC. This is “for the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets.

State agencies must develop long-range program plans. Certain criteria must be included, such as information regarding performance measurement, designated outcomes, etc. They are to be submitted by August 1 of each year in a form prescribed by the Executive Office of the Governor.

The heads of each agency must submit legislative budget requests with additional information. This includes 11 new requirements.

Agencies must maintain a comprehensive performance accountability system. Elaborate new requirements are put in place.

A new section on zero-based budgeting, § 216.1825, F.S., is put in place. Beginning July 1, 2000, and continuing thereafter, the Legislative Budget Commission shall apply zero-based budgeting principles in reviewing the budget of each state agency at least once every 8 years.

A Legislative Budgeting Commission is created with 7 members of the Senate and 7 members of the House.

Also, in § 186.003, the FPSC is expressly added to the definition of “agency.” Section 186.021 on state agency strategic plans is totally rewritten. Annual program plans are required. An information resource plan will also be addressed.

The Legislature shall review all state trust funds once every 4 years. The Act takes effect July 1, 2000, and applies to preparation of the state budget beginning with FY 2001-2002.

## **Retirement Bills**

Information on retirement legislation, provided by the Division of Retirement, is enclosed.

## **II. KEY BILLS THAT FAILED**

- ▶ **SB 2020, Energy Study Commission** - This bill was sponsored by Senator Lee. However, the Governor issued an Executive Order and named the Energy 2020 Study Commission, in honor of the bill that failed to pass.
- ▶ **SB 1348/HB 2231, Medically Essential Electric Utility Service** - The Senate Bill was sponsored by Senator Dawson and the House Bill by Representative Sublette.
- ▶ **HB 365, Refunds to Water/Wastewater Customers** - This bill by Representative Argenziano would have provided refunds to water/wastewater customers. The FPSC Trust Fund would have been the source of the funds.
- ▶ **HB 2023/SB 2556, Revisions to the Administrative Procedures Act** - The House bill passed the House but died in the Senate Judiciary Committee. Also a similar bill, HB 1503, passed the House but died in the Senate Governmental Oversight and Productivity Committee.
- ▶ **SB 758, Growth Management** - This and other growth management bills would have reviewed moving the DRI process from the state to the local level.
- ▶ **HB 367, Water/Wastewater by Rep. Argenziano** - While the provision on public counsel participation in local government water/wastewater proceedings passed in another bill (SB 1280, the nursing home bill), the provision on rate case expenses was not enacted. It would have required that, at the conclusion of the recovery period, the rate of the public utility would be reduced immediately by the amount of rate case expense previously included in rates.
- ▶ **SB 368, Ethics** - This bill passed the full Senate, but died in the House. It would have prohibited any agency employee, after retirement or termination, “from representing or advising another person or entity, except the state, in any matter in which the employee

participated personally and substantially in his or her official capacity through decision, approval, disapproval, recommendation, or rendering of advice.”

- ▶ **HB 1975, Prison PATS** - This would have required reports on prison pay phones by the Department of Corrections and by the PSC.
- ▶ **HB 2171 and SB 1528, Information Technology and Consumer Protection** - These bills would have given Attorney General authority over nonjurisdictional activities of PSC regulated entities.
- ▶ **SB 2160, 911 Fees** - Would have extended PSC authority to assist DMS in collecting 911 fees from ALECs.
- ▶ **SB 1698, Southern Water Use Caution Area** - This bill by Senator Laurent would have created a pilot project to implement a new “market based” method of allocating water resources in an area south of Tampa Bay. This subject may be part of an interim project in the Senate Natural Resources Committee.
- ▶ **HB 821, Florida Electric Rate Reduction** - This bill by Representative Fuller, regarding applying the average Southeastern rate, was withdrawn.

NOTE: We will provide a condensed legislative wrap-up, with new Chapter Law citations, and a list of any gubernatorial vetoes, once the information is available.

CBM:tf

Attachment

cc: William D. Talbott  
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